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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,274	09/26/2003	Yong Cheol Park	0465-1032P	4902
2292 7590 02/20/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
BIBBINS, LATANYA				
ART UNIT		PAPER NUMBER		
2627				
NOTIFICATION DATE		DELIVERY MODE		
02/20/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/670,274

Applicant(s)

PARK ET AL.

Examiner

LaTanya Bibbins

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 24-43 and 51-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 24-43 and 51-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In the remarks filed on October 30, 2008, Applicant amended claims 1-4, 7, 9, 10, 16, 24, 29-43, 51-57, 59 and 60, added claims 61-68, and submitted arguments for allowability of pending claims 1-16, 24-43 and 51-68.

Response to Arguments

2. Applicant's arguments with respect to claims 1-16, 24-43 and 51-60 have been considered but are moot in view of the new grounds of rejection.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. The terms and phrases used in the claims must find clear antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the descriptions. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Correction of the following is required: claims 30-43 and 51-55 recite the term computer-readable recording medium. The as-filed disclosure provides proper antecedent basis for the term "optical recording medium." Therefore, an amendment to the claims to recite an "optical recording medium" or an amendment to the specification to include the term computer-readable recording medium, such that there is proper antecedent basis for the claimed subject matter, is suggested.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1-16, 24-43 and 51-68 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.**

The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. New or amended claims which introduce elements or limitations which are not supported by the as-filed disclosure violate the written description requirement. See MPEP § 2163 I(B).

In the amendment filed October 30, 2008, claims 1, 7, 29, 30, 36, 61, and 65 were amended/added to include the limitation at least one second temporary defect management area with "an initial variable size." While the specification discloses a temporary defect management area with a "variable size" (see various paragraphs throughout the specification where the temporary defect management area is continually referred to as having a variable size) the specification does not disclose or suggest, either explicitly or implicitly, such an area with an **"initial"** variable size. Therefore, the claimed limitation "at least one second temporary defect management area with an initial variable size" of amended/newly added claims 1, 7, 29, 30, 36, 61,

and 65 is not supported by the as-filed disclosure, and the written description requirement is violated.

Dependent claims 2-6, 8-16, 24-28, 31-35, 37-43, 51-60, 62-64 and 66-68 do not resolve the 35 U.S.C. 112 first paragraph issues of independent claims 1, 29, 30, 61 and 65 recited above and are therefore rejected as incorporating the deficiencies of a claim upon which they depends.

Allowable Subject Matter

6. Claims 1-16, 24-43 and 51-68 are not indicated as allowable in light of the rejection under 35 U.S.C. 112, 1st paragraph, set forth in this Office action.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaTanya Bibbins whose telephone number is (571)270-1125. The examiner can normally be reached on Monday through Friday 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaTanya Bibbins/
Examiner, Art Unit 2627

/Wayne Young/
Supervisory Patent Examiner, Art Unit 2627

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